



## CITY OF SAN JOSÉ, CALIFORNIA

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### SAN JOSÉ ELECTIONS COMMISSION

Thomas Mertens, Chair  
Jang Badhesha  
Michael Smith  
Tony Ventura

### SAN JOSÉ ELECTIONS COMMISSION MEETING MINUTES November 14, 2007

#### I CALL TO ORDER

The Members of the San José Elections Commission convened at 5:34 p.m. in Room W-242 of City Hall, 200 E. Santa Clara Street, San José, CA 95113.

PRESENT: COMMISSIONERS de Funiak, Smith, Ventura and Mertens

ABSENT: COMMISSIONERS Badhesha

STAFF PRESENT: Chief Deputy City Attorney Norm Sato  
Senior Deputy City Attorney Lisa Herrick  
City Clerk Lee Price  
Deputy City Clerk Michelle Radcliffe

#### II CLOSED SESSION

##### A. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9 subsection (a):

Name of Cases:

1. San José Silicon Valley Chamber of Commerce Political Action Committee, et al. v. City of San José and San José Elections Commission
2. Ted Smith v. City of San José and San José Elections Commission

The Committee convened into Closed Session at 5:34 p.m. and reconvened in Open Session at 6:20 p.m.

### III APPROVAL OF MINUTES

- A. Minutes of July 11, 2007 were approved.
- B. Minutes of August 8, 2007, were approved.
- C. Minutes of August 9, 2007, were approved.
- D. Minutes of September 5, 2007, were approved as amended.
- E. Minutes of October 10, 2007, were approved.

### IV REPORT OF THE CHAIR

Chair Mertens reported that he is considering leaving before his March 1, 2008 term expiration date.

### V DISCUSSION ITEMS

- A. Review of Draft Ordinance increasing Penalties for Violations of the Campaign Contribution Ordinance

Document Filed: Draft Ordinance of the City of San José amending sections 12.04.110 and 12.04.120 of Chapter 12.04 of Title 12 of the San José Municipal Code to increase the total amount of penalties which may be imposed by the San José Elections Commission

Chief Deputy City Attorney Norm Sato summarized the draft ordinance and stated that the ordinance will amend the penalty for violating the campaign contribution ordinance to \$5,000 or three times the amount of the contribution, whichever is greater.

Motion: Upon motion by Commissioner Smith, seconded by Commissioner de Funiak and unanimously passed, the Commission authorized the City Attorney to move the ordinance forward to the City Council for discussion at the December 11, 2007 City Council meeting.

- B. Review of Draft Ordinance Requirements for Disclosure Statements on Campaign and Independent Expenditure Statements

Document Filed: Draft Ordinance of the City of San José amending Chapter 12.06 Title 12 of the San José Municipal Code by adding a new part 10 to set out requirements for campaign disclosures and disclaimers

Chief Deputy City Attorney Sato summarized the draft ordinance and responded to brief questions.

Motion: Upon motion by Commissioner Smith, seconded by Commissioner Ventura and unanimously passed, the Commission authorized the City Attorney to move the ordinance forward to the City Council for discussion at the December 11, 2007 City Council meeting. The Committee also directed the City Attorney to research policy regarding web-based marketing.

- C. Subcommittee report on possible revisions to the Elections Commission structure. (Continued from the 9-5-07 meeting)

Documents Filed: Handout from Chair Mertens depicting the Los Angeles City Ethics Commission enforcement structural flowchart

The subcommittee (Mertens/de Funiak) presented a synopsis of their visit with Leann Pelham, Executive Director, and David Tristan, Deputy Director of the Los Angeles City Ethics Commission. No action taken.

- D. Discussion of protection for “whistle blowers” and/or other persons submitting testimony to the Elections Commission. (Continued from the 9-5-07 meeting).

Discussion ensued about protection for “whistle blowers” and/or other persons submitting testimony to the Elections Commission. Chief Deputy City Attorney summarized the state “whistle blower” law as it relates to employees. He advised that the City of San José cannot provide protection to “whistle blowers” or for any other witnesses submitting testimony. No action taken.

#### IV MEETING SCHEDULE

The next meeting was scheduled for November 26, 2007 at 6:00 p.m. as a special meeting.

#### V PUBLIC COMMENT

There were none.

VI ADJOURNMENT

The meeting adjourned at 7:08 p.m.

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THOMAS M. (TOM) MERTENS, CHAIR

ATTEST:

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LEE PRICE, MMC  
CITY CLERK and SECRETARY TO THE COMMISSION